

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WELLS FARGO BANK NA DBA
AMERICAS SERVICING COMPANY,

Plaintiff,

v.

MAYDA SANCHEZ,

Defendant.

No. C 10-01395 CRB

**ORDER GRANTING PLAINTIFF'S
MOTION TO REMAND AND
DENYING PLAINTIFF'S REQUEST
FOR ATTORNEYS' FEES**

Now pending before the court is Plaintiff Wells Fargo's Motion to Remand and For Attorneys' Fees. Pro se Defendant Mayda Sanchez opposes the motion. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter suitable for resolution without oral argument. Because Defendant's notice of removal was not timely filed, Plaintiff's Motion to Remand is GRANTED. Plaintiff's request for attorney's fees is DENIED.

The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.

28 U.S.C. § 1446(b).


In this case, Defendant was served with the Summons and Complaint on October 6, 2009, a fact she does not dispute. Mtn. Ex. B; Opp. at 2. Accordingly, Defendant had until

1 November 6, 2009 to file a notice of removal. She did not do so until April 2, 2010, almost
2 five months beyond the cutoff date. The Court therefore finds that removal was untimely and
3 GRANTS Plaintiff's Motion to Remand.

4 The Court DENIES Plaintiff's request for attorneys' fees. Though Defendant missed
5 the relevant deadline by several months, Defendant "filed the notice of removal without the
6 benefit of legal counsel." *OneWest Bank, FSB v. Mohr*, 2010 WL 2721437 (N.D. Cal. July
7 7, 2010). "[A] fee award is [therefore] not appropriate in this case." *Id.*

8 **IT IS SO ORDERED.**

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11 Dated: July 22, 2010



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE

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